

THURSDAY, APRIL 16, 1998

Misc. Order

98-03

By the Court:

Associate Justice Richard M. Sims III is appointed to serve as Acting Presiding Justice to discharge the duties described in Rules 75, 76, 77 and 78 of the California Rules of Court during absence of the Presiding Justice from the Court for the period of April 22, 1998, through April 24, 1998, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

Dated: April 16, 1998

PUGLIA, P.J.

Civil

No.

C027244

NORTHERN CALIFORNIA COLLECTION ETC.

vs.

HYDRA WAREHOUSING AND CONSOLIDATION INC.

By the Court:

Pursuant to written request of appellant, the appeal filed August 5, 1997, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19(b) .)

Dated: April 16, 1998

PUGLIA, P.J.

FRIDAY, APRIL 17, 1998

Civil

No.

C021863

RALPH MCCULLOUGH

(Not for Publication)

vs.

CALIFORNIA DEPARTMENT OF WATER RESOURCES

The judgment is reversed. On remand, the trial court is directed to enter judgment notwithstanding the verdict in favor of the Department. The Department shall receive its costs on appeal.

PUGLIA, P.J.

I concur:

DAVIS J.

I would affirm the judgment; if I were of the view that the evidence is insufficient to support it, I would reverse for a new trial.

BLEASE, J.

FRIDAY, APRIL 17, 1998 CONTINUED

Crim. No. C025504	THE PEOPLE vs. ALEJANDRO MENDOZA SALAZAR	(Not for Publication)
-------------------------	--	-----------------------

The judgment is affirmed.

SIMS, Acting P.J.

We concur: SCOTLAND, J.
 MORRISON, J.

MONDAY, APRIL 20, 1998

Crim. No. C026485	THE PEOPLE vs. DOUGLAS WAYNE TUTTLE	(Not for Publication)
-------------------------	---	-----------------------

The judgment is affirmed.

SCOTLAND, J.

We concur: PUGLIA, P.J.
 SIMS, J.

Juvenile No. C028040	IN RE BRANDON H., A person Coming Under the Juvenile Court Law. DEPARTMENT OF HUMAN SERVICES vs. DEBORAH H.	(Not for Publication)
----------------------------	--	-----------------------

The judgment is affirmed.

SCOTLAND, J.

We concur: PUGLIA, P.J.
 SIMS, J.

Crim. No. C025635	THE PEOPLE vs. THOMAS MCCRACKEN	(Not for Publication)
-------------------------	---------------------------------------	-----------------------

SCOTLAND, J.

We concur: BLEASE, Acting P.J.
 NICHOLSON, J.

TUESDAY, APRIL 21 1998

Civil KENNETH GEORGE MORRIS (Not for Publication)
No. vs.
C025990 FORD MOTOR COMPANY ET AL.

The judgment is affirmed. Defendants are awarded their costs on appeal.

RAYE J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C021207 DERICK WAYNE ERVIN

The restitution fine is reduced to \$9,868. The superior court is directed to amend the abstract of judgment to reflect this reduced fine and to forward a copy of the amended abstract to the Department of Corrections. The conviction is affirmed as modified without prejudice to the defendant's filing a petition for writ of habeas corpus. (People v Furhman, supra, 16 Cal. 4th at pp. 945-946.)

MORRISON, J.

We concur: BLEASE, Acting P.J.
 SCOTLAND, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C026754 ERNEST DUANE NUNNELLY

The judgment is modified to stay execution of sentence on count two pending finality of the judgment and service of sentence as to count. The trial court is directed to prepare and amended abstract of judgment and forward it to the Department of Corrections. As modified, the judgment is affirmed.

RAYE, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

TUESDAY, APRIL 21, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027610 SIGFREDO RAMON MONTTOYA

The judgment is affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.
 BLEASE, J.

Civil MARTIN SCHAEFER (Not for Publication)
 No. vs.
 C025584 MYDRIN INC.,

The order is affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.
 CALLAHAN, J.

Juvenile In re HEATHER E., A Minor Coming Under the Juvenile Court Law
 No. CHILDREN SERVICES DIVISION
 C027146 vs. (Not for Publication)

GREG E.

The orders appealed from are affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.
 BLEASE, J.

Civil HOWARD RICE (Not for Publication)
 No. vs.
 C025084 BRITTANY HEALTHCARE CENTER

The judgment is affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.
 SIMS, J.

TUESDAY, APRIL 21, 1998 CONTINUED

Civil JESS W. HOOPEs ET AL. (Not for Publication)
No. vs.
C026338 ELOISE ANDERSON, AS DIRECTOR, ETC.

The judgment (order) is reversed. The matter is remanded for adjudication on the merits. The Hoopes shall recover their costs of this appeal.

RAYE, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

Civil FAIRWAY DOWNS PARTNERS ET AL.
No. vs. (Not for Publication)
C024286 CHRISTOPHER MYERS

The order granting Myers attorney fees and including computer assisted legal research expenses is reversed. Appellants shall recover their costs on appeal.

RAYE, J.

We concur: PUGLIA, P.J.
 BLEASE, J.

Civil JAMES D, KERR (Not for Publication)
No. vs.
C023579 COUNTY OF EL DORADO ET AL.

The judgment is affirmed.

RAYE, J.

We concur: DAVIS, Acting P.J.
 CALLAHAN, J.

ESTATE OF MARY A. PETER, DECEASED
CHARLENE MOORHEARD ET AL.

By the Court:

Appellants' opening brief is due to be served and filed on or before May 12, 1998. No further extensions of time will be granted for the filing of the brief.

SIMS, Acting P.J.

THE PEOPLE (Not for Publication)

HULL, J.

We concur: PUGLIA, P.J.
SIMS, J.

JOHN JARAMILLO (Not for Publication)

CALLAHAN, J.

We concur: DAVIS, Acting P.J.
 RAYE, J.

PATRICIA M. PHILPOTT (Not for Publication)

We concur: PUGLIA, P.J.
SCOTLAND, J.

We concur: PUGLIA, P.J.
SCOTLAND, J.

WEDNESDAY, APRIL 22, 1998 CONTINUED

Civil WESLEY P. BERG II (Not for Publication)
No. vs.
C026009 SOUTHERN PACIFIC TRANSPORTATION COMPANY
 The judgment is affirmed.
 NICHOLSON, J.
We concur: PUGLIA, P.J.
 SCOTLAND, J.

Juvenile IN RE ALLEN L. ET AL., Persons Coming Under the Juvenile Court Law.
No. LASSEN COUNTY CHILD PROTECTIVE SERVICES
C025788 vs. (Not for Publication)
JAMES L. ET AL.

The orders appealed form are affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
NICHOLSON, J.

THURSDAY, APRIL 23, 1998

Crim. THE PEOPLE (Not for Publication)
No. vs.
C024984 JAMES CARL RANDOLPH
The judgment is affirmed.
PUGLIA, P.J.
We concur: BLEASE, J.
SCOTLAND, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C026560 SHERMAN ELLIS

The judgment is affirmed.

PUGLIA, P.J.

We concur: DAVIS, J.
CALLAHAN, J.

THURSDAY, APRIL 23, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027619 MARCOS GUTIERREZ SANCHEZ

The judgment is affirmed.

PUGLIA, P.J.

We concur: BLEASE, J.
 DAVIS, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C025951 DINO HARVEY NAUTON

The judgment is affirmed.

PUGLIA, P.J.

We concur: DAVIS, J.
 SCOTLAND, J.

FRIDAY, APRIL 24, 1998

Civil PAUL STAVIG, ETC. ET AL.
 No. vs.
 C026592 JOHN P. HENDERSON ET AL.

By the Court:

Appellants' petition for rehearing is granted. The decision filed on March 31, 1998, is vacated and the clerk of this court is directed to set the case on calendar for oral argument.

Dated: April 24, 1998

RAYE, Acting P.J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026417 JOSEPH L. MONTIEL

The judgment is affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

FRIDAY, APRIL 24, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026535 KEVIN LOYD WEBB

The judgment is modified to reflect the award of 387 days of custody credit and 192 days of conduct credit for a total of 579 days of presentence credit. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment in accordance with this opinion and to forward a copy of the amended abstract of judgment to the Department of Corrections.

CALLAHAN, J.

We concur: PUGLIA, P.J.
 DAVIS, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026787 RICHARD LEE COOPER

The judgment is vacated and the matter is remanded to the trial court for a new sentencing hearing. In all other respects, the judgment is affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026870 GERALD JEROME JONES

The judgment is affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

MONDAY, APRIL 27, 1998

Crim. THE PEOPLE
 No. vs.
 C024533 LONNIE B. ADAMS
 By the Court:
 Appellant's petition for rehearing is denied.
 Dated: April 27, 1998
SIMS, Acting P.J.

Civil SEAN LYONS ET AL., MINORS, ETC.,
 No. vs. (Not for Publication)
 C022699 CHESTER H. LINCOLN ET AL.
 The petition for rehearing is denied.
PUGLIA, P.J.
 We concur: DAVIS, J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027083 MARLIN ANTHONY NARDIELLO, JR.
 The judgment is affirmed.
DAVIS, J.
 We concur: PUGLIA, P.J.
 BLEASE, J.

Crim. THE PEOPLE (Not for Publication)\
 No. vs.
 C025472 VICENTE GUERRERO
 The judgment is affirmed.
DAVIS, J.
 We concur: PUGLIA, P.J.
 CALLAHAN, J.

MONDAY, APRIL 27, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027368 RONNIE DALE HODGES

Defendant's convictions and sentence are affirmed. The trial court shall correct the abstract of judgment to show stay of sentence on count 2 and shall furnish a copy of the corrected abstract to the Department of Corrections.

SIMS, J.

We concur: PUGLIA, P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C025839 ALEXANDER LEWIS PATTI

The judgment is affirmed.

DAVIS, J.

We concur: SIMS, Acting P.J.
 SCOTLAND, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026109 ANTHONY CHARLES WHIGHAM

The conviction and special findings are affirmed; the sentence is vacated and this matter is remanded to the trial court for resentencing in accordance with this opinion.

DAVIS, J.

We concur: PUGLIA, P.J.
 SCOTLAND, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027509 JOHN DAVID COX

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: NICHOLSON, J.
 HULL, J.

MONDAY, APRIL 27, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C024048 NYLES LAWAYNE WATSON

The convictions are affirmed. The sentence is vacated. The matter is remanded to the trial court for the purpose of allowing the court to exercise its discretion whether to strike defendant's prior serious felony conviction. If the trial court strikes the prior, it shall resentence defendant. If the trial court declines to strike the prior, it shall reinstate the sentence previously imposed.

DAVIS, J.

We concur: BLEASE, Acting P.J.
 SIMS, J.

TUESDAY, APRIL 28, 1998

Civil MARGARITA RAMER (Not for Publication)
 No. vs.
 C025775 COUNTY OF SAN JOAQUIN ET AL.

The judgment (order) is affirmed.

BLEASE, Acting P.J.

We concur: NICHOLSON, J.
 HULL J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026220 RICHARD LAVERNE MORTON

The judgment is affirmed.

RAYE, J.

We concur: PUGLIA, P.J.
 MORRISON, J.

TUESDAY, APRIL 28, 1998 CONTINUED

Crim. No. C023792 C024985	THE PEOPLE vs. CHARLES ALLEN COVEY THE PEOPLE vs. CHARLES ALLEN COVEY The judgment is affirmed.	(Not for Publication) BLEASE, Acting P.J.
	We concur:	DAVIS, J. RAYE, J.
Crim. No. C026978	THE PEOPLE vs. TONY OTTO BROWN The judgment is affirmed.	(Not for Publication) BLEASE, Acting P.J.
	We concur:	MORRISON, J. HULL, J.
Crim. No. C026598	THE PEOPLE vs. UGO MICHAEL POOLE The judgment is affirmed.	(Not for Publication) NICHOLSON, J.
	We concur:	PUGLIA, P.J. RAYE, J.
Crim. No. C025426	THE PEOPLE vs. PETER THOMAS BURKE The judgment is affirmed.	(Not for Publication) NICHOLSON, J.
	We concur:	PUGLIA, P.J. CALLAHAN, J.

TUESDAY, APRIL 28, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C021498 STEVEN MICHAEL COVERT

The judgment is affirmed.

DAVIS J.

I concur:

BLEASE, Acting P.J.

I concur in the result reached by the majority, although for different reasons.

NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C024078 GLEN EDWARD GRIFFIN

The judgment is modified to place a stay pursuant to section 654 upon the 16-month term imposed for the convicted felon in possession of a firearm count. As modified, the judgment is affirmed. The Superior Court shall prepare a corrected abstract of judgment and forward a copy of the same to the Department of Corrections.

DAVIS, J.

We concur: BLEASE, Acting P.J.
 SIMS, J.

Juvenile In re EBONY E. ET AL., MINORS
 No. DEPARTMENT OF HEALTH AND HUMAN SERVICES
 C028066 vs. (Not for Publication)
 CHARLENE L.

The orders terminating mother's parental rights are affirmed.

MORRISON, J.

We concur: PUGLIA, P.J.
 RAYE, J.

TUESDAY, APRIL 28, 1998 CONTINUED

Juvenile In re TANISHA J., a Person Coming Under the Juvenile Court Law
No. DEPARTMENT OF HEALTH AND HUMAN SERVICES
C027286 vs. (Not for Publication)
JUDENA J.

The orders terminating appellant's parental rights, setting the permanency planning hearing and removing the minor from the appellant's custody are reversed. The juvenile court is directed to return the minor to appellant's physical custody forthwith.

BLEASE, J.

We concur: PUGLIA, P.J.
DAVIS, J.

WEDNESDAY, APRIL 29, 1998

Civil THE PEOPLE
No. vs.
C014986 MURRAY L. AND KATHE B. MILLER
 THE COURT:

It is ordered that the opinion filed herein on March 31, 1998, be modified as follows:

1. On page 12, line 11, replace the words “approximately \$100,000” with the words “at least \$73,000” so that the line reads “unlawful business practice was at least \$73,000 in”

This modification does not affect the judgment.

The petition for rehearing is denied.

THE COURT:
PUGLIA, P.J.
SCOTLAND, J.
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C024421 LINDA JANE ADEY

The judgment is affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
NICHOLSON, J.

WEDNESDAY, APRIL 29, 1998

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027455 GEOFFREY WRIGHT WOOD

The judgment is affirmed.

SIMS, Acting P.J.

We concur: MORRISON, J.
 HULL, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026896 LOUIS EUGENE SORTER

Defendant's conviction on count IV is reversed. In all other respects, the judgment is affirmed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

Juvenile LISA N. (Not for Publication)
 No. vs.
 C029021 THE SUPERIOR COURT OF SHASTA COUNTY
 SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES ET AL.

The petition is denied.

SIMS, Acting P.J.

We concur: MORRISON, J.
 HULL, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027938 TONY LESLIE COSTA

The judgment is affirmed.

HULL, J.

We concur: SIMS, Acting P.J.
 MORRISON, J.

WEDNESDAY, APRIL 29, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C026056 MICHAEL ROBERT BOWERS
 The judgment is affirmed.
 CALLAHAN, J.
 We concur: NICHOLSON, Acting P.J.
 MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C027456 KENNETH LLOYD GEORGE
 The judgment is affirmed.
 MORRISON, J.
 We concur: PUGLIA, P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C025645 DAOVONE SOUKKHAVONG
 The judgment is affirmed.
 MORRISON, J.
 We concur: SIMS, Acting P.J.
 RAYE, J.

Juvenile In re JOSHUA C., A Person coming Under the Juvenile Court Law
 No. THE PEOPLE (Not for Publication)
 C027641 vs.
 JOSHUA B.
 The judgment is affirmed.
 MORRISON, J.
 We concur: PUGLIA, P.J.
 RAYE, J.

THURSDAY, APRIL 30, 1998

Civil PAMELA KETCHUM ET AL., (Certified for Publication)
No. vs.
C026528 STATE OF CALIFORNIA

THE COURT:

It is ordered that the opinion filed herein on March 31, 1998, be modified as follows:.....

This modification does not change the judgment.

Plaintiffs' petition for rehearing is denied.

FOR THE COURT:

DAVIS, Acting P.J.

SCOTLAND, J.

MORRISON, J.

Civil MARRIAGE OF TERRY T. AND JAMES A. WATERWORTH
No. TERRY T. WATERWORTH
C028928 vs.

JAMES A. WATERWORTH

By the Court:

Appellant's motion to reinstate the appeal is denied.

Dated: April 30, 1998

PUGLIA, P.J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C027798 LONNIE KENNETH HOWLAND

The judgment is affirmed.

NICHOLSON, J.

We concur: DAVIS, Acting P.J.

HULL, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C025912 SHAWN BALLARD

The judgment is affirmed

CALLAHAN, J.

We concur: NICHOLSON, Acting P.J.

MORRISON, J.